

FACT SHEET

United States Environmental Protection Agency (EPA)
Region 10
Park Place Building, 13th Floor
1200 Sixth Avenue, OW-130
Seattle, Washington 98101
(206) 553-1214

Date: March 18, 1999

Permit No.: ID-002023-1

PROPOSED MODIFICATION OF A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE POLLUTANTS PURSUANT TO THE PROVISIONS OF THE CLEAN WATER ACT (CWA)

CITY OF MCCALL

has an NPDES permit for which a modification is proposed. This Fact Sheet includes the tentative determination of the EPA to modify the permit and information on the procedures for public comment, public hearing and appeal. We call your special attention to the technical material presented in the latter part of this document.

Persons wishing to comment on the tentative determinations contained in the proposed permit modification may do so by the expiration date of the Public Notice. All written comments should be submitted to EPA as described in the Public Comments Section of the attached Public Notice.

After the expiration date of the Public Notice, the Director, Water Division, will make final determinations with respect to the permit modification. The tentative determinations contained in the draft permit will become final conditions if no substantive comments are received during the public notice period.

The permit modification will become effective 30 days after the final determinations are made, unless a request for an evidentiary hearing is submitted within 30 days after receipt of the final determinations.

The proposed NPDES permit modification and other related documents are on file and may be inspected at the above address any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies and other information may be requested by writing to EPA at the above address to the attention of the Water Permits Section, or by calling (206) 553-1214. This material is also available from the EPA Idaho Operations Office, 1435 North Orchard Street, Boise, Idaho 83706.

TECHNICAL INFORMATION

1. Applicant

City of McCall
P.O. Box 1065
McCall, ID. 83638

Contact: The Honorable Kirk Eimers, Mayor
(208) 634-7142

2. Activity

The city of McCall owns and operates a facility that treats wastewater from both domestic and commercial sources (SIC 4952). This facility discharges secondary treated, disinfected wastewater to the North Fork of the Payette River. The collection system has no combined sewers and no significant industrial discharges. Septage is intermittently received at the treatment facility.

3. Receiving Water

The city of McCall discharges throughout the year to the North Fork of the Payette River (NFPR) at river mile 73. The State of Idaho Water Quality Standards and Wastewater Treatment Requirements (16 IDAPA 16.01.21.40.01.gg) protect the NFPR for the following existing uses: domestic water supply, agricultural water supply, cold water biota, salmonid spawning, primary and secondary contact recreation. Flow rates in this reach of the NFPR are regulated by gates at the outlet of Payette Lake, approximately three miles upstream of the McCall discharge. USGS gauging station records below Payette Lake indicate design assumption flows listed in Table 1. Design flows are derived from the one-day, 1-in-10-year low flow (1Q10, Acute), the seven-day, 1-in-10 year low flow (7Q10, Chronic), 30-day, 1-in-5 year low flow (30Q5, Human Health non-carcinogens), and the Harmonic Mean Flow (Carcinogens) from a Storet version of DFLOW using a simplified log-Pearson Type III method. All design flow assumptions are based on recommendations of EPA's Technical Support Document for Water Quality-Based Toxics Control, March 1991.

Table 1

Flow	USGS Station 313239000
1Q10	1.07 cfs
7Q10	1.19 cfs
30Q5	4.62 cfs
Harmonic Mean flow	21.12 cfs

The low flows/design flows in Table 1 are a direct result of almost total diversion of the normal river flow during low flows periods during fall and winter to a State operated fish hatchery upstream of the gauging station. Consequently, the design flows are extremely low and do not accurately represent actual instream conditions. The fish hatchery provides return flows of approximately 20 cfs downstream of the station. All the calculated flows in Table 1 are, therefore, augmented by 20 cfs.

Water quality data for the NFPR from the draft TMDL study on Cascade Reservoir, taken by the state of Idaho Division of Environmental Quality (DEQ) indicate the river is relatively pristine. Table 2 summarizes data for conventional water quality pollutants and nutrient data.

Table 2

Parameter	Range	Units
Temperature	0-24	EC
pH	5.8 - 8.8	Std. Units

Parameter	Range	Units
Dissolved Oxygen	6.9 - 9.5	mg/l
Dissolved Oxygen (% Saturation)	82 - 107%	
Ammonia	0.006 - 0.052	mg/l
Total Nitrogen	0.119 - 0.565	mg/l
Total Phosphorus	0.005 - 0.277	mg/l
Dissolved Ortho-Phosphorus	<0.001 - 0.005	mg/l

Cascade Reservoir, downstream from the McCall discharge has been listed as a water quality limited waterbody by the State of Idaho and has therefore been listed on EPA's 1994 303(d) list for nutrients, pathogens, dissolved oxygen and pH. The Phase I TMDL for Cascade Reservoir authored by DEQ for these parameters was approved by EPA on May 13, 1996. The Phase II TMDL, approved by DEQ on December 14, 1998, calls for the city of McCall to completely eliminate their contribution of phosphorus to the NFPR and ultimately Cascade Reservoir.

4. Background

The effective date of the existing permit is August 12, 1996, and the expiration date is August 13, 2001.

In a letter dated April 12, 1996, DEQ provided §401 certification with respect to the McCall NPDES permit at issue. On July 12, 1996, the Environmental Protection Agency (EPA) issued the NPDES permit incorporating the conditions set forth in DEQ's §401 certification. On May 17, 1996, the City of McCall filed an appeal, a petition for declaratory ruling, request for a stay and request for a hearing pursuant to the Idaho Environmental Protection and Health Act and the Idaho Administrative Procedure Act regarding DEQ's §401 water quality certification. In its appeal, the City asserted that it was inappropriate and unlawful for DEQ to require, in its §401 certification, that the City eliminate 100% of its wastewater treatment facility discharge to the North Fork of the Payette River (NFPR); that the compliance

schedule for the elimination was unreasonable; and that certain monitoring and treatment requirements in the §401 certification were inappropriate.

On August 15, 1996 the City of McCall filed a request for hearing and contest of the NPDES permit before Region X of the EPA. In response, Region X of the EPA denied the request on the grounds that the Region is required to include in a permit the conditions required by a state water quality certification and that the Region may not reject as overly stringent the certification's requirements. The City of McCall also sought a stay of the NPDES permit. That stay was denied on the grounds that the State had not stayed or had not yet modified its 401 Certification.

As a result of the City of McCall's administrative appeal, on July 27, 1998, the city and DEQ entered into a consent order providing, among other things, a new compliance schedule for the elimination of McCall's discharge to the NFPR. As a result of entering into the consent order, the City and DEQ filed a joint motion to dismiss the administrative appeal, which was granted by the Hearing Officer on August 26, 1998.

5. Proposed Modification

The revised permit proposes to change the date for cessation of discharge to the North Fork of the Payette River to October 1, 1999; except as provided for under the emergency discharge limitation" section of the Section 401 Water Quality Certification issued by DEQ on October 8, 1998, as follows:

- A. Emergency Discharge Limitations - On or after October 1, 1999, the permittee is authorized, after first notifying and obtaining the approval of DEQ, to discharge from the plant, storage ponds, or both, to the NFPR during December 1 through May 31 only when insufficient storage capacity exists or is anticipated to exist based upon flow projections. In discharging, the permittee must maintain a 60:1 dilution of river flow to effluent flow and must meet the following additional conditions:
- (1) The discharge must meet the effluent limitations and monitoring requirements presented in table I.A.3 of the permit;
 - (2) There shall be no discharge of floating solids or visible foam in other than trace amounts;
 - (3) For any month the percent removal required for BOD₅ and TSS, as measured

in the influent and the combined effluent, shall equal 85 percent as measured by concentration;

- (4) Percent removal of BOD₅ and TSS shall be reported on the DMRs. For each parameter, the monthly average percent removal shall be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values for that month. Influent and effluent samples shall be taken over approximately the same time period.

B. Effluent Limitations and Monitoring Requirements:

(1) Initial Limitations

- a. Beginning with the 1998 irrigation season, and during every irrigation season thereafter, the City of McCall shall use the J-Ditch to convey all wastewater effluent from the City's wastewater treatment plant to the maximum extent practicable.
- b. During the period beginning on the effective date of this permit, and lasting until September 30, 1999, the permittee is authorized to discharge wastewater to the NFPR from outfall 001, provided the City meets the following conditions:
 - i. The discharge is only allowed when the City cannot use the J-Ditch to convey all wastewater effluent from the City's wastewater treatment plant as specified in paragraph 5.B.(1)a. above.
 - ii. There shall be no discharge of floating solids or visible foam in other than trace amounts.
 - iii. Percent removal requirements for BOD₅ and TSS are as follows: For any month, the monthly average effluent concentration, shall not exceed 15 percent of the monthly average influent concentration. Percent removal of BOD₅ and TSS shall be reported on the Discharge Monitoring Reports (DMRs). For each parameter, the monthly average percent removal shall be calculated from the arithmetic mean of the

influent values and the arithmetic mean of the effluent values for that month. Influent and effluent samples shall be taken over approximately the same time period.

- iv. The discharge must meet the limitations and monitoring requirements presented in table I.A.4 of the permit.

(2) Final Limitations - The permittee shall cease its discharge to the NFPR by September 30, 1999 except as provided in the emergency discharge limitation provision. Any discharge to another surface water will require a new NPDES permit application.

(3) Monitoring Requirements

- a. During the period beginning on the effective date of this permit and lasting until the expiration date, any discharge to the NFPR shall be monitored in accordance with the requirements presented in tables I.A.3 and I.A.4 in the permit.
- b. Heavy metals shall be monitored in accordance with the requirements presented in table I.B.2 of the permit.
- c. All metals analyses shall be reported as both "Total Recoverable" and "Dissolved." The permittee shall use "clean techniques" for sample collection and analyses.

C. Compliance Schedule (IDAPA 16.01.02.400.03)

The permittee shall comply with the following schedule towards the elimination of the discharge from the McCall wastewater treatment facility to the NFPR:

1. **Construction of the First Cell of the Winter Storage Facility.**

- a. By August 1, 1999, the City of McCall shall complete construction of the first cell of the wastewater treatment facility.
- b. By October 1, 1999, the City of McCall shall begin operation of the first cell. If ready, the cell may be used at an earlier date. Once the

first cell is operational, the City shall use the first cell for the storage of treated effluent, and may only discharge effluent to the NFPR as allowed under the NPDES permit.

2. Construction of the Second Cell of the Winter Storage Facility.

- a. By August 1, 2000, the City of McCall shall complete construction of the second cell of the wastewater treatment facility.
- b. By October 1, 2000, the City of McCall shall begin operation of the second cell. If ready, the cell may be used at an earlier date. Once the second cell is operational, the City shall use the second cell for the storage of treated effluent, and may only discharge effluent to the NFPR as allowed under the NPDES permit.
- c. The City of McCall shall provide documentation to DEQ and EPA by June 1, 2000 certifying that the discharge from the City's wastewater treatment facility to the NFPR has been eliminated, except as allowed under the NPDES permit.

6. Force Majeure Clause

The revised §401 certification submitted by the state includes a provision entitled "Force Majeure," which states that the city shall not be deemed in violation of the certification during any period in which its performance is prevented or delayed by any cause or event reasonably beyond the city's control ("force majeure events"). The Force Majeure clause gives the state the authority to extend a deadline for performance in the case of force majeure events. EPA has not included this Force Majeure clause in the draft permit because it lacks the authority to do so. First, the Force Majeure clause, if incorporated into the NPDES permit, would vest with the state the authority to extend deadlines in a federal NPDES permit. Such an arrangement would be, to EPA's knowledge, unprecedented. Second, the exceptions from compliance allowed by the Force Majeure clause are not contemplated by Part 122.

Because the §401 certification, through the Force Majeure clause, would allow discharges that the NPDES permit, if revised as proposed, would not, EPA is revising various conditions in the NPDES permit to make clear that discharges may only occur as allowed in the NPDES permit. Language permitting discharges as allowed in the §401 certification is being deleted. However, it should be understood that, this deletion notwithstanding, the §401 certification

continues to be enforceable as a matter of state law.

7. Endangered Species Act

Section 7 of the Endangered Species Act (ESA) requires federal agencies to request a consultation with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USF&WS) regarding potential effects an action may have on listed endangered species. Both Services were consulted when the McCall permit was reissued in August of 1996. Neither Service identified ESA issues with the permit. A request for an updated species list has been sent to each Service. If species are identified as a result of the new request, consultation will be completed prior to issuance of the modified permit.

8. Modified Sections of the Permit

Modified sections of the permit are **bolded** for easy identification.